UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/833,635	04/13/2001	Anupriya Ramraj	10013684-1	3075

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EXAMINER
MANIWANG, JOSEPH R

ART UNIT	PAPER NUMBER
2144	

DATE MAILED: 06/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Office Action Summary	09/833,635	RAMRAJ ET AL.
	Examiner	Art Unit	
	Joseph R. Maniwang	2144	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>07 February 2005</u>.

2a)☐ This action is **FINAL.**   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-22</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-22</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

    1.☐ Certified copies of the priority documents have been received.

    2.☐ Certified copies of the priority documents have been received in Application No. _____.

    3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2.   Claims 1-22 'are rejected under 35 U.S.C. 102(e) as being anticipated by Pogue

et al. (U.S. Pat. No. 6,112,240), hereinafter referred to as Pogue.

3.   Regarding claims 1 and 12, Pogue disclosed a method and system comprising a

read unit accessing a web page from a web server, wherein the web page includes at

least one block of processing code for executing a transaction (see column 4, line 1); a

reconfiguration computer downloading the web page from the web server (see column

4, line 1); an update unit updating the web page by inserting instructions in the web

page, wherein said instructions comprise a function for monitoring the transaction (see

column 4, lines 16-29); and a storage unit storing the updated web page on the web

server (see column 4, lines 2, 23-29, 45-60).

4.   Regarding claims 2 and 13, Pogue disclosed the method and system wherein the

inserted instructions comprise a call instruction linking the at least one block of code to

one or more files comprising monitoring instructions (see column 4, lines 30-32).

5.   Regarding claims 3 and 14, Pogue disclosed the method and system wherein the

inserted instructions comprise a call instruction providing a data communication link

both within the web page and to a computer remote from the web server (see column 4,

lines 32-35).

6.   Regarding claims 4 and 15, Pogue disclosed the method and system further

comprising a second storage unit storing the monitoring instructions file on the web

server (see column 5, lines 10-14); and a second update unit modifying a web server

page tag of the transaction to be monitored to reference the monitoring instructions file

(see column 4, lines 16-29).

7.   Regarding claims 5 and 16, Pogue disclosed a method and system comprising a

first transmission unit sending a web page from a web server to a client browser within a

network (see column 4, lines 2-3); a processor executing an applet within the web page

on the client browser, wherein the applet includes at least one link to a monitoring code

file (see column 4, lines 1, 30-35); a monitoring unit invoking the monitoring code file to

monitor a transaction within the applet on the client browser (see column 7, lines 2-10);

and a second transmission unit sending data generated from monitoring the transaction

to a measurement computer, wherein the measurement computer is a computer other

than the web server, and wherein the monitoring code file resides on a computer other

than the measurement computer (see column 7, lines 2-28).

8.   Regarding claims 6 and 17, Pogue disclosed the method and system where the

web page can contain one or more applets and each applet can contain one or more

transactions to be monitored (see column 7, lines 29-47).

9.   Regarding claims 7 and 18, Pogue disclosed the method and system wherein the monitoring unit further captures data associated with the execution of the transaction on the client browser (see column 7, lines 2-10).

10.   Regarding claims 8 and 19, Pogue disclosed the method and system wherein the monitored transaction data includes one or more data items selected from a list consisting of transaction start and stop time, the time zone in which the transaction is executed, and the operating system of the client browser (see column 5, lines 60-67).

11.   Regarding claims 9 and 20, Pogue disclosed the method and system wherein the monitored transaction data is stored and evaluated on the measurement computer independently from the processing of the web page on the client browser (see column 7, lines 2-4, 23-28).

12.   Regarding claims 10 and 21, Pogue disclosed a method and system comprising an associating unit linking an applet within a web page on a web server to at least one monitoring code file (see column 7, lines 29-47); a first transmission unit sending the web page from the web server to a client browser within a network (see column 7, lines 29-33); a processor executing the linked applet within the web page on the client browser (see column 7, lines 33-35); a monitoring unit invoking the monitoring code file to monitor a transaction within the linked applet on the client browser (see column 7, lines 35-27); and a second transmission unit sending data from monitoring the transaction to a measurement computer, wherein the measurement computer is a computer other than the web server (see column 7, lines 39-44).

13.   Regarding claims 11 and 22, Pogue disclosed method and system comprising a

first transmission unit downloading transaction code from a first computer to be

processed on a second computer (see column 4, lines 16-19); a processor executing

the downloaded transaction code on the second computer (see column 4, line 1); a

browser to extract monitoring code from the first computer to the second computer (see

column 4, line 1); a monitor unit on the second computer capturing transaction

execution data associated with the executing transaction (see column 4, lines 35-38);

and a second transmission unit sending the transaction execution data from the second

computer to a third computer, wherein the first, second, and third computers are remote

from each other (see column 4, lines 38-44).

Response to Arguments

14.   Applicant's arguments filed 02/07/05 have been fully considered but they are not

persuasive. Additionally, Applicant's arguments with respect to claims 4, 6, 10, 15, 17,

and 21 previously rejected under 35 U.S.C. 103(a) have been considered but are moot

in view of the new ground(s) of rejection.

15.   Regarding claims 1-3, 5, 7-9, 11-14, 18-20, and 22 rejected under 35 U.S.C.

102(e) as being anticipated by Pogue et al. (U.S. Pat. No. 6,112,240), Applicant

traverses the rejection. Specifically, regarding claim 12, Applicant asserts that Pogue

does not disclose a "reconfiguration computer" and the concept of downloading a web

page to a reconfiguration computer, which then updates the web page. In response to

applicant's argument that the references fail to show certain features of applicant's

invention, it is noted that the features upon which applicant relies (i.e., a reconfiguration computer which updates a web page) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Furthermore, Examiner submits that the client downloading a web page disclosed by Pogue (see column 4, line 1) reads upon the broad concept of a reconfiguration computer downloading a web page from a web server as claimed.

16.   Applicant asserts that Pogue does not teach the insertion of monitoring instructions. However, as acknowledged by Applicant, Pogue describes inserting a tracker tag in a web page (see column 4, lines 21-29), which reads upon the broad concept of inserting monitoring instructions. As correctly noted by Applicant, the tracker tag is used to create a tracker message. Pogue further states that the tracker tag is used "to direct a tracker message from the client computer to the tracker (see column 4, lines 61-67), which clearly reads on the claimed "monitoring instructions".

17.   Applicant further asserts that Pogue does not disclose the storing of the updated web page with inserted monitoring instructions on the web server. However, Examiner submits that such a limitation is inherent in the disclosure of Pogue. Pogue describes that it is a tag on a downloaded web page that is executed by the client (see column 5, lines 7-14). This would not be possible if the added tracker tag coded in HTML (see column 4, lines 16-29) was not stored on the web server at the time of request by the client.

18.   Regarding claim 16, Applicant asserts that the monitoring code files of Pogue

reside on the tracking computer, teaching away from the claimed limitations. However,

Examiner submits that in another embodiment of Pogue, the disclosed cookie reads

upon the broadly claimed monitoring code, which resides on the client computer rather

than the tracking computer and is sent to the tracking computer after being generated

by the tracker on the client computer (see column 7, lines 2-10).

19.   Regarding claim 22, Applicant asserts that Pogue fails to disclose extracting

monitoring code from the first computer for use by the second computer as a monitoring

function. It is noted that Applicant equates the first computer with a web server, the

second computer with a client, and the third computer with a tracking computer. Thus,

Examiner submits that these broadly claimed limitations are disclosed by Pogue, which

includes all three of the claimed elements as detailed in the above rejection.

20.   Regarding claims 4, 6, 10, 15, 17, and 21 previously rejected under 35 U.S.C.

103(a) as being unpatentable over Pogue et al. (U.S. Pat. No. 6,112,240) in view of

Davis et al. (U.S. Pat. No. 5,796,952), the arguments are moot in view of the new

grounds of rejection under 35 U.S.C. 102(e). Examiner submits that the broad

limitations claimed are taught by the prior art as detailed above.

Conclusion

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Joseph R. Maniwang whose telephone number is (571)

272-3928. The examiner can normally be reached on Mon-Fri 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, David A. Wiley can be reached on (571) 272-3923. The fax phone number

for the organization, where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the

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you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

MARC D. THOMPSON

JM

PRIMARY EXAMINER